

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF OHIO

AMANDA AND KENNETH ROSS	:	
ON BEHALF OF THEIR CHILD,	:	
JOHN DOE	:	<b><u>COMPLAINT</u></b>
850 Euclid Ave. Ste. 701	:	
Cleveland, OH 44114	:	TRIAL BY JURY DEMAND
	:	ENDORSED HEREON
Plaintiffs,	:	
v.	:	
COLUMBUS BOARD OF EDUCATION	:	
270 E. State St.	:	
Columbus, OH 43215	:	
and	:	
JODI FULLERTON, in her official and	:	
personal capacity	:	
473 Catawba Ave.	:	
Westerville, OH 43081	:	
Defendants.	:	

**INTRODUCTION**

1. This is an action brought to secure enforcement of federally protected rights arising out of governmental misconduct, encroachment and abuse in violation of the Fourteenth Amendment to the Constitution of the United States as well as state law claims.
2. Plaintiffs seek declaratory, injunctive relief and damages.

**CLAIMS AND JURISDICTION**

3. This action is initiated pursuant to the Civil Rights Act of 1871, 42 U.S.C. §1983, to redress the deprivation under color of statute, ordinance, regulation, custom or usage of rights,

privileges and immunities secured to Plaintiffs under the Fourteenth Amendment to the United States Constitution.

4. Jurisdiction is invoked pursuant to 28 U.S.C §§ 1331 and 1343(a)(3) and (4). To the extent declaratory relief is sought, claims are asserted pursuant to 28 U.S.C. §§ 2201 and 2202.
5. At all times relevant to this complaint, Defendants have acted under color of law and under color of the statutes, ordinances, charter, regulations, customs, usages and practices of local government and a government official of the city of Columbus, Ohio.

### **PARTIES**

6. Plaintiffs Amanda and Kenneth Ross, on behalf of their son, John Doe, are persons who reside in Franklin County within the jurisdiction of the United States District Court for the Southern District of Ohio.
7. Defendant Columbus Board of Education is part of a political subdivision of the State of Ohio charged with the administration of a public school district, is obligated to operate pursuant to the rules and regulations of the State of Ohio and pursuant to obligations under the Constitution of the State of Ohio and the United States, and is an entity operating public education in and around the City of Columbus and is otherwise responsible for the formulation, implementation and enforcement of all policies, practices, procedures, acts and conduct regarding the administration of matters affecting the children attending public schools in those communities and regarding the administration of matters affecting the children, family, employees and board members of the district.
8. Defendant Jodi Fullerton is or was an employee of the Columbus City School District at all relevant times relating to this Complaint.

**COUNT I**

**PROCEDURAL AND SUBSTANTIVE DUE PROCESS CLAIMS UNDER THE  
FOURTEENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED  
STATES  
(CLAIMS AGAINST ALL DEFENDANTS)**

9. Plaintiffs reassert the foregoing allegations and incorporate them by reference as if fully set forth herein.
10. Amanda and Kenneth Ross are the parents of John Doe.
11. John Doe attended Parkmoor Elementary School within the Columbus City School District during the 2023-2024 school year.
12. John Doe was in pre-k during the 2023-2024 school year.
13. John Doe has been diagnosed with autism.
14. Joe Doe is on a plan mandating Defendant Columbus City School District's responsibility to accommodate the disability for which he suffers.
15. Defendant Jodi Fullerton ("Fullerton") is a teacher at Parkmoor Elementary School within the Columbus City School District.
16. On May 3, 2024, John Doe and his class were waiting to enter the cafeteria.
17. John Doe, who is five (5) years old, was sitting on the floor.
18. Fullerton tripped over John Doe.
19. Fullerton then told another teacher standing near John Doe that he should move.
20. When John Doe did not move fast enough, Fullerton instructed the other teacher to kick John Doe.
21. When the other teacher refused, Fullerton intentionally struck John Doe and knocked him over.
22. After knocking over John Doe, Fullerton kicked John Doe while he was on the ground.

23. Fullerton then proceeded to pick John Doe up like a football and carry him away.
24. Prior to incident on May 3, 2024, Fullerton had told another colleague “don’t you wish you could just kick them back” in response to Fullerton’s colleague complaining about students’ behaviors.
25. Upon information and belief, the Columbus City School District was aware of Fullerton’s threat to injure students prior to the May 3, 2024 assault.
26. The Columbus City School District took no action to protect students following Fullerton’s threats of violence against students.
27. Prior to the incident on May 3, 2024, Fullerton had been caught drinking alcohol on the job at Parkmoor Elementary School during the 2023-2024 school year.
28. No discipline or corrective action appears to have been taken related to Fullerton being caught drinking alcohol while working at Parkmoor Elementary School.
29. Parkmoor Elementary staff was aware of Fullerton having been drinking alcohol on the job during the 2023-2024 school and did nothing to protect the students, including John Doe, at Parkmoor Elementary from Fullerton.
30. Parkmoor Elementary staff appeared to expect to have misconduct issues arise at Parkmoor Elementary towards the end of the 2023-2024 school year.
31. The Columbus City School District has failed to adequately train and monitor its staff in order to protect students.
32. The Columbus City School District has failed in its hiring and retention practices as it relates to protecting students.
33. The acts and conduct of Defendants have been in wanton and reckless disregard of the rights and feelings of John Doe.

34. As a result of the acts and conduct by Defendants, John Doe was deprived of his personal and individual rights ensured under the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

35. As a result of the acts and conduct of Defendants, John Doe has suffered from the assault and battery which has resulted in significant emotional distress, physical injuries as well as pain and suffering.

36. The acts and conduct of Defendants resulted as a consequence of their deliberate indifference to the rights of John Doe and in derogation of the due process rights of the John Doe.

## **COUNT II**

### **CLAIMS ARISING OUT OF COLUMBUS CITY SCHOOL DISTRICT'S FAILURE TO TRAIN, RETENTION AND SUPERVISION (CLAIMS AGAINST DEFENDANT COLUMBUS BOARD OF EDUCATION)**

37. Plaintiffs reassert the foregoing allegations and incorporate them by reference as if fully set forth herein.

38. The Columbus City School District is obligated to train and enforce policies of employees to ensure that students are not subjected to inappropriate and abusive misconduct.

39. The Columbus City School District is obligated to ensure that its educators understand the consequences of misconduct.

40. The Columbus City School District is obligated to be educated about the rights of children and their right not to be wrongfully harassed, assaulted and battered by its employees.

41. The Columbus City School District is obligated to monitor and supervise its employees to ensure that students are not harmed by its employees.

42. The Columbus City School District knew or should have known that the training of Fullerton was inadequate based on her prior misconduct.
43. Prior to the incident on May 3, 2024, Fullerton had told another colleague “don’t you wish you could just kick them back” in response to Fullerton’s colleague complaining about students’ behaviors.
44. Upon information and belief, the Columbus City School District was aware of Fullerton’s threat to injure students prior to the May 3, 2024 assault.
45. Upon information and belief, the Columbus City School District took no action to protect its students, including John Doe, from Fullerton after it became aware that Fullerton wanted to inflict violence upon its students.
46. Upon information and belief, prior to incident on May 3, 2024, Fullerton was caught drinking alcohol while working at Parkmoor Elementary School and received no discipline or additional training as a result of her severe misconduct.
47. On May 3, 2024, as a result of the Columbus City School District’s failures, Fullerton carried out her threat of violence and assaulted John Doe.
48. The acts and conduct of the Columbus City School District in failing to ensure that Fullerton was adequately trained arose out of the deliberate indifferences of the Columbus City School District and was in wanton and reckless of the rights and feelings of John Doe.
49. The acts and conduct of the Columbus City School District in failing to ensure that Fullerton was monitored following her prior misconduct arose out of the deliberate indifferences of the Columbus City School District and was in wanton and reckless of the rights and feelings of John Doe.

50. As a result of the failure of the Columbus City School District to adequately provide sufficient training and monitoring concerning the rights of children and those with disabilities, John Doe has suffered and will continue to suffer substantial emotional pain, physical pain and suffering.

51. The acts and conduct of the Columbus City School District had been in wanton and reckless disregard of the rights and feelings of John Doe.

52. The acts and conduct of the Columbus City School District demonstrated deliberate indifference to the rights of a disabled child and in derogation of John Doe's rights.

### **COUNT III**

#### **INTENTIONAL INFLICTION OF EMOTION DISTRESS** **(CLAIMS AGAINST DEFENDANT FULLERTON)**

53. Plaintiffs reassert the foregoing allegations and incorporate them by reference as if fully set forth herein.

54. Being physically assaulted by an employee of the Columbus City School District under color of state law was and will continue to be a traumatizing and disturbing experience for any child.

55. Having an educator attack a student will continue to be a traumatizing and disturbing experience for any child.

56. When an educator who holds a position of trust and authority over children, attacks a student, an intentional infliction of emotional and mental distress of severe consequence should be expected.

57. By wrongfully attacking John Doe, Defendant Fullerton knew or should have known it would result in serious emotional and mental distress inflicted by her.

58. Defendant Fullerton knew or should have known it was likely to inflict serious emotional and mental injury on a child when she assaulted and battered the child.
59. Fullerton's actions exceed all reasonable bounds of decency and is intolerable in a civilized community.
60. Fullerton's actions proximately caused John Doe's emotional injury, psychological injury, physical injury and loss of quality of life.
61. The mental anguish suffered by John Doe is serious, consequential and should not have to be endured by any child seeking to attend school in a safe environment.
62. The acts and conduct of Fullerton were intentional, malicious and in wanton and reckless disregard of the rights and feelings of John Doe.
63. The acts and conduct of Fullerton were undertaken with deliberate indifference.
64. John Doe has sustained significant emotional injuries arising out of Fullerton's unlawful actions.

**COUNT IV**

**ASSAULT AND BATTERY**  
**(CLAIMS AGAINST DEFENDANT FULLERTON)**

65. Plaintiffs reassert the foregoing allegations and incorporate them by reference as if fully set forth herein.
66. Defendant Fullerton intentionally knocked John Doe to the ground.
67. Defendant Fullerton proceeded to kick John Doe while he was on the ground.
68. The attack caused John Doe pain and caused John Doe to further feel endangered for his safety.



69. As a result of the acts and conduct of Defendant Fullerton, personally and under color of state law, John Doe suffered physical and emotional injury which he continues to endure and for which Fullerton is responsible.

70. The acts and conduct of Defendant Fullerton were intentional, malicious and in wanton and reckless disregard of the rights and feelings of John Doe.

**COUNT V**

**(CIVIL LIABILITY FOR CRIMINAL ACTS UNDER R.C. 2307.60(A)(1) AND  
INCLUDING BUT NOT LIMITED TO R.C. 2903.13(A)  
(CLAIMS AGAINST DEFENDANT FULLERTON)**

71. Plaintiffs reassert the foregoing allegations and incorporates them by reference as if fully set forth herein.

72. Under R.C. 2307.60(A)(1), “Anyone injured in person or property by a criminal act has, and may recover full damages in a civil action,” Including attorneys’ fees and punitive damages.

73. R.C. 2903.13(A) provides that “no person shall knowingly cause or attempt to cause physical harm to another...”

74. Defendant Fullerton knowingly caused physical and emotional harm to John Doe.

75. As a direct and proximate result of Defendant Fullerton’s unlawful activity, John Doe has suffered and continues to suffer economic and non-economic damages for which Defendant Fullerton is liable.

76. Defendant Fullerton’s conduct was intentional, malicious, willful, and in complete and conscious disregard for John Doe’s legal rights, entitling John Doe to both compensatory and punitive damages.

WHEREFORE, Plaintiffs urge this Court to grant the following relief:

- A. Declare that the acts and conduct of the Defendants constitute violations of the Fourteenth Amendment to the Constitution of the United States and the Civil Rights Act of 1871, 42 U.S.C. §1983;
- B. Preliminarily and permanently enjoin the Defendants, their representatives and all others working in concert with them from engaging in the future in the actions which have the purpose or effect of depriving citizens of rights insured under the Fourteenth Amendment;
- C. Grant to the Plaintiffs and against the Defendants appropriate compensatory damages;
- D. Grant to Plaintiffs against Defendant Fullerton, appropriate compensatory, exemplary and punitive damages;
- E. Grant to the Plaintiffs and against Defendants a reasonable attorney fee and costs as provided by federal statute;
- F. Grant any additional relief the Court deems just, equitable and in the public interest.

Respectfully submitted,

KLEBANOW LAW, LLC

/s/ Jared S. Klebanow  
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**TRIAL BY JURY DEMANDED**

Plaintiffs Amanda and Kenneth Ross on behalf of their child  
John Doe, hereby demand a trial by jury.

/s/ Jared S. Klebanow  
JARED S. KLEBANOW (0092018)